

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claim 22 remains active in this case and is amended by the present amendment to better state the claimed patent scope in accordance with Applicant's intentions. The changes to Claim 22 are believed to be self-evident, and are not believed to raise a question of new matter.

In the outstanding Office Action, Claim 22 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 11/408,189. In order to obtain swift issuance of a patent from the present application, and for administrative convenience, submitted herewith is a duly executed terminal disclaimer which overcomes the outstanding obviousness double patenting rejection.¹

¹ As per MPEP 804.02, “[t]he filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.”

Consequently, in view of the present amendment and in light of the above comments, no further issues are believed to be outstanding, and the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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